

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2015-003826

07/29/2016

HONORABLE PATRICIA ANN STARR

CLERK OF THE COURT
T. DeRaddo
Deputy

CIMARRON HOMEOWNERS ASSOCIATION MICHAEL C LAMB

v.

KAREN KOWAL-SHAW

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PO BOX 51746
PHOENIX AZ 85076

MINUTE ENTRY

The Court has considered Plaintiff's Motion for Summary Judgment, filed June 17, 2016, Plaintiff's Motion to Strike Defendant's Answer and Counterclaim and Enter Default, filed June 17, 2016, and its Motion for Summary Disposition, filed July 26, 2016.

Defendant has not responded to the Motion for Summary Judgment. Failure to respond may be deemed consent to granting of the motion, pursuant to Rule 7.1(b), Ariz. R. Civ. P. Moreover, when the moving party on a motion for summary judgment makes a prima facie case showing the absence of any genuine issue of fact, as Plaintiff has done here, the adverse party must come forward with competent evidence which creates a genuine issue for trial. See, e.g., *MacConnell v. Mitten*, 131 Ariz. 22, 25, 638 P.2d 689, 692 (1981). Defendant has failed to do so.

Therefore,

IT IS ORDERED granting the Motion for Summary Judgment.

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As to the Motion to Strike Defendant's Answer and Counterclaim and Enter Default, the Court finds that before the ultimate sanction should occur, Defendant should have the opportunity to respond. If she does not, her Answer and Counterclaim will be struck, and Default entered against her. See, e.g., *Zimmerman v. Shakman*, 204 Ariz. 231, 62 P.3d 976 (App. 2003) (due process required before imposition of sanctions for abuse of discovery or disclosure).

Accordingly,

IT IS ORDERED Defendant shall file a response to the Motion to Strike Defendant's Answer and Counterclaim and Enter Default by August 17, 2016. If no response is filed, the Motion will be granted as of that date.